

PAULA O'CONNOR
Chairman

MIKE MURPHY
Board Member

JACK RABOURN
Board Member



STATE OF WASHINGTON

WASHINGTON STATE LIQUOR CONTROL BOARD

1025 East Union • P.O. Box 43075 • Olympia, Washington 98504-3075 • (206) 753-6262

December 8, 1992

TO: Jack Rabourn, Board Member

FROM: Jan Britt, Programs Administrator
Enforcement *Jan B.*

SUBJECT: Alternatives to Current Beer/Wine Price Posting System

You asked last week if I had any suggestions for streamlining the current beer and wine posting review system. I believe there are three options currently available to the Board which would not take any legislative change or rule changes. They are summarized below. I believe Alternative 1 to be the best method for revising the price posting system.

AUTHORITY

RCW 66.28.180 states:

"It is unlawful for a person, firm, or corporation holding a certificate of approval issued under RCW 66.24.270 or 66.24.206, a beer wholesaler's license, a brewer's license, a beer importer's license, a domestic winery license, a wine importer's license, or a wine wholesaler's license within the state of Washington to modify any prices without prior notification to and approval of the board." (emphasis added)

The statute is further interpreted by four Board rules:

- WAC 314-20-100 - Beer wholesale price posting
- WAC 314-20-105 - Beer suppliers' price filings, contracts and memoranda
- WAC 314-24-190 - Wine wholesale price posting
- WAC 314-24-200 - Wine suppliers' price filings, contracts and memoranda

The Board's policy to implement the statute and rules is set forth in the "Manufacturers, Importers and Wholesalers Division Policy (MIW) and Procedure Manual", chapters 17 and 18. These chapters were written, published and approved by the Board on September 5, 1980.

PLAINTIFF'S EXHIBIT	
CASE NO.	CV04-0360P
EXHIBIT NO.	093

Britt
DEP EXHIBIT 121
CA. 121
NOTED PUBLIC
6-2705

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1 adm asst
2 data C 3
1 CK T. 3
1 pt time CT

CURRENT PROCESS

The current process as outlined in MIW chapters 17 and 18 currently requires the efforts of 6 people - 2 full time data compilers, 2 part time clerk typist 3s, and the assistance of the Board receptionist whenever available. The work of these 5 people is reviewed by 1 administrative assistant.

Each licensee is required to file price postings and send in two copies of their posting forms within the deadlines required. The posting forms are reviewed by staff for:

- filed within date deadlines
- price changes
- items dropped
- new items
- package size changes
- price changes that are below cost plus 10%
- proper distributor appointments

Each posting form is individually reviewed, and each item on the posting form is perused for the above 7 items.

Forms are marked according to the changes instituted, stamped approved, conditionally approved or disapproved and returned to the licensee who submitted the form.

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ALTERNATIVE 1

Licensees would file one copy of their posting form within the deadlines required.—

The posting form would be checked for meeting date deadlines and filed for review by the Board employees, the public and trade representatives.

- Any posting received after the deadline would be stamped "disapproved" and returned to the licensee who submitted it.
- All other price posting forms would be accepted for the file as "Approved" and filed.

Any Board employee, trade representative or member of the public would be able to review the posting forms and make any complaint necessary if there is an indication that:

- the posting was filed outside of the date deadlines
- the new items did not have label approval
- the package size is not within Board guidelines
- a price is below cost plus 10%
- a sale is made to an unauthorized distributor

POSSIBLE BENEFITS

1. Less paperwork for licensees to send in.
2. Less paperwork for licensees to file (i.e. no postings returned from the Board for the licensee to file.)
3. Free up 2 data compilers full time work for reassignment elsewhere,
Free up 1 administrative assistant review of the 2 data compilers,
5. Free up one clerk typist 3 part time work on wine posting to allow her to devote full time to wine and beer label approvals (taking over the beer label approval process from one of the data compilers),
6. Free up the Board receptionist from posting work ups ~~for other Board assignments.~~ *to do review of 20% of*
7. The current part time (Mon - Wed) clerk typist 3 *submit* would continue to receive the postings, check for dates and file the price filings as they come in. Only those that come in past the dates set by rule would be stamped "disapproved" and returned.
8. There should also be a significant reduction in postage charges as we would no longer be mailing postings back. This is "guesstimated at \$50 a month savings. Along with the postage savings is the

*Move to
Lic Tech
move to
Lic Tech*

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savings by Board personnel in the reduction of mail handled.

9. The "industry" would continue to be self-policing as they claim they are and would need to make written referrals to the Board when they believe there is a violation. This would provide a better tracking system of posting complaints.
10. The Board would take the appropriate administrative action for any violations (ex. selling below posted price, selling unapproved product, etc.) and these types of violations would be tracked in the Board's current violation tracking system.

POSSIBLE PROBLEMS

*Note
S.S. ppl
or price
violation*

- A. During the past year, only 1 case has been made for selling below posted price. The number of complaints made and investigations required will probably increase. I estimate it will take about 1 years experience to see if the complaints made and substantiated increases or not.
- B. The industry may not want to change the current system.
- C. Revised system may not withstand a possible court challenge. (This is because there is no active monitoring of the price postings.)

STEPS FOR THE BOARD TO TAKE TO IMPLEMENT ALTERNATIVE 1

- * Adopt a new Board policy on the processing of price postings - see attachment no. 1,
- * Customize current complaint form for a "posting complaint form" for trade members who review price postings to complete if they have a complaint - see attachment no. 2,
- * Reassign personnel as needed within the agency.

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AUTHORITY

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CURRENT PROCESS

The current process as outlined in MIW chapters 17 and 18 currently requires the efforts of 6 people - 2 full time data compilers, 2 part time clerk typist 3s, and the assistance of the Board receptionist whenever available. The work of these 5 people is reviewed by 1 administrative assistant.

Each licensee is required to file price postings and send in two copies of their posting forms within the deadlines required. The posting forms are reviewed by staff for:

- filed within date deadlines
- price changes
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Each posting form is individually reviewed, and each item on the posting form is perused for the above 7 items.

Forms are marked according to the changes instituted, stamped approved, conditionally approved or disapproved and returned to the licensee who submitted the form.

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ALTERNATIVE 1

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The posting form would be checked for meeting date deadlines and filed for review by the Board employees, the public and trade representatives.

- Any posting received after the deadline would be stamped "disapproved" and returned to the licensee who submitted it.

- All other price posting forms would be accepted for the file as "Approved" and filed.

Any Board employee, trade representative or member of the public would be able to review the posting forms and make any complaint necessary if there is an indication that:

- the posting was filed outside of the date deadlines
- the new items did not have label approval
- the package size is not within Board guidelines
- a price is below cost plus 10%
- a sale is made to an unauthorized distributor

POSSIBLE BENEFITS

1. Less paperwork for licensees to send in.
2. Less paperwork for licensees to file (i.e. no postings returned from the Board for the licensee to file.)
3. Free up 2 data compilers full time work for reassignment elsewhere,
Free up 1 administrative assistant review of the 2 data compilers,
5. Free up one clerk typist 3 part time work on wine posting to allow her to devote full time to wine and beer label approvals (taking over the beer label approval process from one of the data compilers),
6. Free up the Board receptionist from posting work ups for other Board assignments.
7. The current part time (Mon - Wed) clerk typist 3 would continue to receive the postings, check for dates and file the price filings as they come in. Only those that come in past the dates set by rule would be stamped "disapproved" and returned.
8. There should also be a significant reduction in postage charges as we would no longer be mailing postings back. This is "guesstimated at \$50 a month savings. Along with the postage savings is the

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savings by Board personnel in the reduction of mail handled.

9. The "industry" would continue to be self-policing as they claim they are and would need to make written referrals to the Board when they believe there is a violation. This would provide a better tracking system of posting complaints.
10. The Board would take the appropriate administrative action for any violations (ex. selling below posted price, selling unapproved product, etc.) and these types of violations would be tracked in the Board's current violation tracking system.

POSSIBLE PROBLEMS

- Note
5.5 ppl
or only
violation*
- A. During the past year, only 1 case has been made for selling below posted price. The number of complaints made and investigations required will probably increase. I estimate it will take about 1 years experience to see if the complaints made and substantiated increases or not.
 - B. The industry may not want to change the current system.
 - C. Revised system may not withstand a possible court challenge. (This is because there is no active monitoring of the price postings.)

STEPS FOR THE BOARD TO TAKE TO IMPLEMENT ALTERNATIVE 1

- * Adopt a new Board policy on the processing of price postings - see attachment no. 1,
- * Customize current complaint form for a "posting complaint form" for trade members who review price postings to complete if they have a complaint - see attachment no. 2,
- * Reassign personnel as needed within the agency.

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ALTERNATIVE 2

Alternative 2 is a variation of alternative 1. The differences are indicated in bold print.

Licensees would file one copy of their posting form within the deadlines required.

The posting form would be checked for meeting date deadlines and filed for review by the Board and trade representatives.

- Any posting received after the deadline would be stamped "disapproved" and returned to the licensee who submitted it.
- All other price posting forms would be accepted for the file as "Approved" and filed.

A representative sample - say ³⁰~~25~~% (or any figure set by the Board) would be reviewed by ~~one data compiler~~ for the same items as are currently reviewed: *the receptionist*

- filed within date deadlines
- price changes
- items dropped
- new items
- package size changes
- price changes that are below cost plus 10%
- proper distributor appointments

All prices posted would be accepted as "Board Approved" unless or until the data compiler contacted the licensee to discuss any problem.

Any Board employee, trade representative or member of the public would be able to review the posting forms and make any complaint necessary if there is an indication that:

- the posting was filed outside of the date deadlines
- the new items did not have label approval
- the package size is not within Board guidelines
- a price is below cost plus 10%
- a sale is made to an unauthorized distributor

POSSIBLE BENEFITS

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4. Free up 1 administrative assistant review of the 2 data compilers,
5. Free up one clerk typist 3 part time work on wine posting to allow her to devote full time to wine and beer label approvals (taking over the beer label approval process from one of the data compilers),
6. Free up the Board receptionist from posting work ups for other Board assignments.
7. The current part time (Mon - Wed) clerk typist 3 would continue to receive the postings, check for dates and file the price filings as they come in. Only those that come in past the dates set by rule would be stamped "disapproved" and returned.
8. There should also be a significant reduction in postage charges as we would no longer be mailing postings back. This is "guesstimated at \$50 a month savings. Along with the postage savings is the savings by Board personnel in the reduction of mail handled.
9. The "industry" would continue to be self-policing as they claim they are and would need to make written referrals to the Board when they believe there is a violation. This would provide a better tracking system of posting complaints.
10. The Board would take the appropriate administrative action for any violations (ex. selling below posted price, selling unapproved product, etc.) and these types of violations would be tracked in the Board's current violation tracking system.

POSSIBLE PROBLEMS

- A. During the past year, only 1 case has been made for selling below posted price. The number of complaints made and investigations required will probably increase. I estimate it will take about 1 years experience to see if the complaints made and substantiated increases or not.
- B. The industry may not want to change the current system.
- C. Revised system has a better chance of withstanding any court challenges (than alternative 1).

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ALTERNATIVE 3

The RCW states it is unlawful to modify any prices without prior notification to and approval of the Board.

Alternative 3 would be to discontinue the present system in its entirety and create a new price posting system that meets the requirements of the law; yet is much less cumbersome than the present system.

This may also include rewriting the current rules that govern our current posting system and possibly allowing for quantity discounts, credit sales, different posting deadlines, etc.

This is a long range alternative based on a computer generated and reviewed pricing system.

cc: Gary Gilbert

POSTINGS/ENFORCE/POLICY

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